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HIGH COURT OF CHHATTISGARH AT BILASPUR

DB : HON'BLE SHRI VIJAY KUMAR SHRIVASTAVA
AND HON'BLE SHRI DHIRENDRA MISHRA, JJ

M.A. (C) No. 147 OF 2007

Appellants	1.	Rajesh alias Raju Sahu, son of Late Kedar Nath Sahu, aged 39 years. Occ: Businessmen.
	2.	Smut. Shyama Sahu, W/o. Rajesh Sahu, age: 32 years,
		Both R/o. Kua Chowk, Near Daya Ram Sinha's house, Pachri Para, Durg (C.G.)

Versus

Respondents	1.	Saroj Kumar Pandya, son of Kamal Pandya, aged: 34 years, R/o. Ward No. 13, near Shiv Mandir, Ahiwara, Distt. Durg
	2.	Chanchal Bafna, S/o. Paras Mal Bafna, C/o. Chanchal Vastralaya, Main Road, Ahiwara, Distt. Durg (C.G.)
	3.	New India Insurance Company Ltd., through : Divisional Manager, Divisional Office, Bhilai, Distt. Durg (C.G.)

Present: Shri Amiyakant Tiwari, Advocate for the appellants.

None appears for the respondents.

ORAL ORDER
(9-2-2007)

The order of the Court was passed by Dhirendra Mishra, J:-

The appellants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, hereinafter referred to as the Act) against award dated 26-10-2006 passed in Claim Case No. 114/2006 by 9th Additional Motor Accident Claims Tribunal (F.T.C.), Durg by which a sum of Rs. 1,84,500/- has been awarded in favour of the appellants.

(99)

2. The appellants preferred a claim petition before the learned Tribunal claiming compensation for death of their son Depankar aged 11 years who sustained injuries in the motor vehicle accident on 15-11-2004 and died. The Tribunal assessing the notional income of the deceased as Rs. 15,000/- and further deducting 1/3rd amount as per Schedule-II of Section 163(A) of the Act and applying multiplier of 15, has assessed the amount of compensation.

3. This appeal has been preferred on the ground that firstly the Tribunal was not justified in deducting 1/3rd amount from the notional income. Reliance is placed in the matter of **Manju Devi and another -v- Musafir Paswan and another** reported in **2005(1) T.A.C. 609 (SC)**. Another limb of argument of the appellants is that no provision has been made for future prospects in the income, therefore, the award impugned is inadequate and deserves to the enhanced.

4. We have heard learned counsel for the appellants and perused the impugned award. It is not in dispute that the age of the deceased at the time of death was 11 years. In such circumstances, multiplier of 15 is applicable. So far as deduction of 1/3rd amount is concerned, in the judgment relied upon by the appellant in **Manju Devi**'s case (supra), it has been held that the award of compensation has to be made by applying multiplier method as given in Schedule - II of Section 163(A) of the Act and from perusal of the above Schedule, deduction of 1/3rd amount is required to be made from earning capacity of the deceased. Though in the above case, no deduction was made by the Hon'ble Supreme Court but the law as laid down in the above judgment clearly envisages that in the identical matters multiplier method as given in Schedule - II of Section 163(A) of the Act is applicable. In the instant case also, the learned Tribunal after correctly assessing the income as per Schedule II of Section 163(A) of the Act has assessed the compensation at Rs. 1,84,500/- and there is no irregularity or infirmity in the impugned award.

5. In the result, the appeal being devoid of substance is dismissed in limine.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Dhirendra Mishra
Judge